

# H.R. 3361, The USA FREEDOM ACT

## FACT SHEET

**The USA FREEDOM Act reforms intelligence-gathering programs to enhance civil liberty protections while preserving traditional operational capabilities to protect national security.**

- **The Act prohibits the bulk collection of records under Section 215 of the PATRIOT Act; the FISA pen register, trap and trace statute; and the national security letter statutes.** This goes further than the President’s plan in that it prohibits the bulk collection of all tangible things and not just telephone records.
- **The Act preserves traditional operational capabilities.** The government may continue to collect foreign intelligence information under each of these authorities. However, the government must now base the use of these authorities on a “specific selection term” defined to preclude indiscriminate, bulk record collection.
- **The Act creates a new, narrowly-tailored authority for the collection of call detail records.** This new authority leaves the records in the hands of the providers, is limited to only international terrorism investigations, and requires the government to obtain a court order on a case-by-case basis to request the records from the providers.
- **The Act imposes limitations on the new call detail record authority.** Production of call detail records cannot exceed 180 days unless the government seeks permission of the court to renew the order. The government is limited to only two “hops”—i.e., the call detail records associated with the initial seed and the call detail records associated with the records returned in the initial “hop.” The government is also required to promptly destroy records that do not contain foreign intelligence information.
- **The Act provides additional national security safeguards.** The Act establishes emergency authority for section 215 business records. The government must file an order with the court within 7 days of use of emergency authority and if the court determines that there was no emergency, the government must destroy the information it collected except in instances of a threat of death or serious bodily harm.
- **The Act makes clear that nothing in the Act authorizes the collection of communications content under Section 215 of the PATRIOT Act.**

**The USA FREEDOM Act expands the role of the Foreign Intelligence Surveillance Court in oversight of national security programs.**

- **The Act establishes judicial review of the government’s minimization procedures under Section 215.** Under current law, the court is only authorized to determine whether or not the government has minimization procedures in place.
- **The Act empowers the court to appoint amicus curiae.** The FISA Court must designate 5 individuals with expertise in privacy and civil liberties, intelligence

collection, telecommunications, or any other area that may lend legal or technical expertise to the courts to serve as amicus curiae on cases involving a novel or significant interpretation of law or as the court deems appropriate.

**The USA FREEDOM Act provides additional safeguards to Americans' privacy and additional protections to third parties.**

- **The Act protects Americans' communications under Section 702 of FISA.** The Act codifies existing minimization procedures that minimize the collection and prohibit the retention and dissemination of wholly domestic communications. The Act also prohibits the government from using communications to or from a United States person or a person who appears to be located in the United States, except where the communication relates to a target under Section 702 or to protect against an immediate threat to human life.
- **The Act requires the government to destroy unlawfully collected information.** The government is prohibited from using information acquired outside the scope of court-approved targeting and minimization procedures.
- The Act provides liability protections to third parties who provide information, facilities, or technical assistance to the government in compliance with an order issued under Section 215 or under this Act.
- The Act requires the government to compensate third parties for producing call detail records under the new Section 215 authority and for providing information, facilities, or assistance in accordance with an order issued under Section 215.

**The USA FREEDOM Act provides transparency to the American people.**

- **The Act requires an audit of Section 215.** The Inspector General of the Department of Justice is required to conduct a full review of the use of Section 215 with respect to calendar years 2012 to 2014.
- **The Act requires an intelligence assessment of Section 215.** The Inspector General of the Intelligence Community is required to assess the value and use of intelligence obtained under Section 215 over the same period.
- **The Act allows tech companies to publicly report intelligence orders.** The Act permits those who receive FISA court orders and National Security Letter requests to publicize ranges of numbers of requests they receive.
- **The Act requires public disclosure of FISA Court opinions.** The Director of National Intelligence and the Attorney General are required to conduct a declassification review of each decision, order, or opinion of the FISA court that includes a significant construction or interpretation of law. In the instance in which an opinion cannot be declassified for

national security reasons, the DNI and AG must still issue a public summary of the decision.

- **The Act requires public disclosure of the number of FISA orders.** The Administrative Office of the United States Courts is required to issue an annual report to Congress on the number of orders issued under authorities in FISA, as well as the number of appointments of individuals to serve as amicus curiae to the FISA court. This report must also be made publicly available. The DNI is also required to issue annual public reports on the number of orders issued under FISA and NSL authorities.

**THE USA FREEDOM ACT expands existing reporting requirements under FISA.**

- **The Act requires annual reports on the new Section 215 authority.** In addition to existing annual reporting requirements, this Act requires the government to report on the number of requests made for call detail records under the new Section 215 authority.
- **The Act requires Section 215 compliance reporting to Congress.** The Act requires the government to provide to Congress a summary of compliance reports related to the use of Section 215.
- **The Act requires the government to report on FISA orders that are modified or denied by the court.** The Attorney General must provide to the relevant committees, within 45 days of each decision, order, or opinion, including a modification or denial of an application, that includes a significant construction or interpretation, a copy of each such decision and a brief statement of the relevant background.

**The USA FREEDOM Act aligns the sunsets of the three expiring provisions to the PATRIOT Act with the sunset of the FISA Amendments Act on December 31, 2017**